AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of New Mexico

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
JAN 08 2016
MATTHEW J. DYKMAN
CLERK

United States of America
v.
Patrick Yazzie-Tso (YOB: 1988)
SSN xxx-xx-5855
20-A Jacona Road
Santa Fe, NM, 87506

Defendant(s)

Case No. 16 mj 52

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 13, 2015 in the county of Santa Fe in the State and District of New Mexico, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. 1153, 113(a)6 & 113(a)8)	The defendant, an Indian, commited an assault which resulted in serious bodily injury to the person of Jane Doe, a non-Indian while in Indian Country. In addition, the defendant, an Indian, assaulted a spouse, intimate partner, or dating partner, to wit, Jane Doe, a non-Indian, by strangling, suffocating, or attempting to strangle or suffocate her while in Indian Country, in violation of Title 18 USC 1153, 113(a)(6) and 113(a)(8)

This criminal complaint is based on these facts:

See the attached affidavit.

☑ Continued on the attached sheet.

J.P. Montowine (signature)
Complainant's signature

J.P. Montowine, Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 1/8/2016

Laura Fashing (signature)
Judge's signature

City and state: Albuquerque, NM

Laura Fashing, U.S. Magistrate Judge
Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO
Albuquerque, New Mexico

UNITED STATES OF AMERICA)
)
VS.)
Patrick **Yazzie-Tso**)
Year of Birth 1988)
SSN xxx-xx-5855)
20-A Jacona Road,)
Santa Fe, NM, 87506)

Case No: ______________________

AFFIDAVIT

I, J.P. MONTOWINE, being duly sworn, depose, and say the following:

1. I am a Special Agent (SA) with the Bureau of Indian Affairs (BIA) assigned to the Northern Pueblos Agency, Ohkay Owingeh, New Mexico. My duties are to provide law enforcement services to the Eight Northern Indian Pueblos and other Indian Country Entities within the State of New Mexico. My primary duties are investigating violations of the Major Crimes Act, and Crimes under 18 USC 1153, which occur on the reservations to which I am assigned. I have twenty one (21) total years of law enforcement experience with two different law enforcement entities. I have been with the Bureau of Indian Affairs, Office of Justice Services for nineteen (19) years. I have completed the Basic Criminal Investigation Course at the Federal Law Enforcement Training Center in Glynco, Georgia and the Basic Police Training with the United States Indian Police Academy at the Federal Law Enforcement Training Center in Artesia, New Mexico. I have extensive in-service and technical training in different aspects of Law Enforcement. Investigations of assault resulting in serious bodily injury, domestic Violence, and Strangulations are some of my responsibilities.

2. Because this affidavit is being submitted for the purpose of a Warrant for Arrest, I have not included each and every fact known to me concerning this investigation. The information set forth in this affidavit is known to me as a result of my own investigation, or has been communicated to me by other law enforcement officers and or agents. I have set forth facts I believe are necessary for the insurance of an arrest warrant for Patrick **Yazzie-Tso**, an Indian, for the assault which resulted in serious bodily injury by strangulation to Jane Doe, a non-Indian while in Indian Country. In addition, there is probable cause to believe **Yazzie-Tso** assaulted Jane Doe by striking her with his hands and dragging her across the floor of their shared residence.

3. On December 16, 2015, the Pojoaque Tribal Police Department (PTPD) received a report of a domestic violence situation and initiated an investigation. As a result of the investigation, I have learned the following.

4. The victim of this investigation has been identified as Jane Doe, a non-Indian adult female. Jane Doe has a year of birth of 1992, and an address of Jacona Road, Santa Fe, New Mexico, 87506.

5. The subject of this investigation has been identified as Patrick **Yazzie-Tso**, an Indian, and adult male. He will be referred to as **Yazzie-Tso** for the remainder of this affidavit. **Yazzie-Tso** is an enrolled member of the Navajo Nation, Rock Point Chapter, Arizona.

6. The location of this incident has been identified as a residence at Jacona Road, Santa Fe, New Mexico. This location is within the exterior boundaries of the Pojoaque Pueblo Land Grant and is "Indian Country" as defined by Federal law.

7. Jane Doe and **Yazzie-Tso** were residing together at the residence described in Paragraph 6 and were involved in an intimate relationship at the time of the assault. Jane Doe and Yazzie-Tso had been intimately involved with each other since April of 2015.

8. PTPD Police Officer (PO) N. Barton conducted an interview with Jane Doe on December 16, 2015. Jane Doe explained **Yazzie-Tso** and herself were being intimate on the couch then moved into their bedroom. After engaging in sexual intercourse, Jane Doe rolled over and **Yazzie-Tso** began to question her and asked if he satisfied her. Jane Doe replied, "Yes, you do". Jane Doe said **Yazzie-Tso** was forceful and continued to question her. **Yazzie-Tso** became upset and stood up from the bed. Jane Doe answered his questions as she pleaded with him to relax and come back to bed. Jane Doe slid to the edge of the bed and continued to plead with him.

9. Jane Doe further explained **Yazzie-Tso** struck her on the left side of her head with a closed fist in her temple and cheek area. Jane Doe fell to the right and **Yazzie-Tso** once again struck her in the head with a closed fist. Jane Doe said **Yazzie-Tso** picked up his acoustical guitar, gripped it by the neck with his hands and slammed it onto the floor. Jane Doe thought she was going to be physically assaulted with the guitar. Jane Doe explained she feared for her safety, and because of the continued assault on her person, she curled up into a ball to protect herself. Jane Doe heard her five (5) year old son screaming outside the bedroom. **Yazzie-Tso** grabbed a large painting canvas with boards, held it above his head, and then he slammed it down onto Jane Doe. In addition,

Jane Doe explained **Yazzie-Tso** started yelling, "Look what you made me do! I am going to kill you, kill your son, then kill myself!"

10. Jane Doe said she feared for her life as well as her sons, and she could hear him screaming and crying outside the door. **Yazzie-Tso** turned and headed toward the door. Due to the threats made by **Yazzie-Tso** she jumped up from the bed fearing her son was going to be assaulted. Jane Doe said she grabbed her son and ran with him to his room hoping to lock themselves in, however the door knob had no locking mechanism.

11. Jane Doe explained she put her son into the closet and told him to stay there. As she did this, **Yazzie-Tso** came through the door, tackled her onto the bed, grabbed her shoulders with both hands and shook her violently. Jane Doe was scared for her life as well as her sons, so she pushed and kicked back against his attack. Jane Doe said she kicked **Yazzie-Tso**, but was unable to get away. **Yazzie-Tso** threw himself forward grabbing her and strangling her by wrapping both of his hands around her neck and throat. Jane Doe advised him doing this cut off her airway, and her ability to breathe and speak. Jane Doe said she immediately felt pressure in her lower eye socket and believed **Yazzie-Tso** was trying to kill her. In addition, she thought she was going to die as a result of being strangled, she felt powerless and could not do anything. Jane Doe said she could not do anything for approximately fifteen (15) to twenty (20) seconds, and then she found the ability to fight back against **Yazzie-Tso**. Jane Doe said she pushed and clawed at his face causing him to retreat from his attack and strangulation.

12. Jane Doe said **Yazzie-Tso** got up and ran to the bathroom to vomit. She ran to her bedroom and grabbed some clothing since she was unclothed during the assault. Jane Doe ran into her son's bedroom and attempted to get dressed, and as she lay back on her son's bed to pull up her pants **Yazzie-Tso** entered the room and grabbed her by her ankles. In addition, he yanks her from the bed and drags her through the residence, down the hallway, and into the kitchen. Jane Doe attempted to grab the door jamb but was unsuccessful, so she tried to use her hands, elbows and arms to keep from being dragged further. **Yazzie-Tso** continued to drag Jane Doe through the residence and she felt he was going to kill her. He threatened he was going to throw her body in the back of his truck and dump her body in the snow.

13. Jane Doe was able to flee to a neighbor's residence and call her mother for help. Her mother arrived at the residence and she and her son were able to leave the area. They went to Jane Doe's mother's residence located on the Santa Clara Pueblo Land Grant (Indian Country). **Yazzie-Tso** arrived at the residence of Jane Does mother and attempted to forcibly break in an attempt to further victimize Jane Doe. Jane Doe contacted law enforcement. However, **Yazzie-Tso** fled the scene prior to the arrival of the New Mexico State Police.

14. On December 17, 2015, I briefly spoke with **Yazzie-Tso** in an attempt to interview him. However he expressed his desire to have an attorney present before answering any questions. No further questions were asked.

15. On this same date, I spoke with Jane Doe in the presence of Pojoaque Tribal Police Officer N. Barton. I asked Jane Doe to describe how she felt during the assault and

strangulation she sustained by **Yazzie-Tso**. Jane Doe replied she was terrified, and scared for her life. She thought she was going to die. Jane Doe demonstrated how **Yazzie-Tso** wrapped his hands around her neck and applied pressure to her throat with his thumbs. Jane Doe said it felt like her eyes balls were going to pop out of her head and further advised it was very painful. **Yazzie-Tso** threatened to kill her as he strangled her. Jane Doe is not totally certain if she lost consciousness during the strangulation and further explained she could not breathe or yell. Jane Doe said she fought really hard to get out of the grasp of **Yazzie-Tso** by attempting to peel away his hands, scratching his face and trying to gouge out his eyeballs. Jane Doe said **Yazzie-Tso** put a lot of pressure on her neck and by the look on his face he was squeezing as hard as he could. Jane Doe saw the facial expression on **Yazzie-Tso** to be frightening. She physically demonstrated how he was gritting his teeth together, was grunting and his eyes were opened wide.

16. Jane Doe explained she was seeking medical attention for the injuries she has sustained from the assault, mainly the strangulation. Jane Doe was experiencing pain and tenderness in her throat and other areas of her neck when she swallowed food, liquids and spoke. She also felt internal soreness in her neck when she moved her head. In addition, Jane Doe had a slight redness on the front of her neck.

17. Jane Doe said she had soreness throughout her body as a result of the assault. Jane Doe had visible abrasions or scuff marks consistent with being dragged across a carpeted floor on her elbows and triceps. In addition, Jane Doe had slight bruising on her lower calves and ankles consistent with her statement that **Yazzie-Tso** had his hands wrapped around them as she was dragged.

18. Based on my training and experience, I have learned strangulation is an assault which can result in serious bodily injury to the victim. I have further learned a victim can be rendered unconscious due to strangulation, and not realize it. In addition, I have learned a victim of strangulation has difficulty swallowing, breathing, and speaking. The victim will have a raspy voice and will have tenderness or soreness to the throat and neck area. In this particular case, Jane Doe experienced all the above symptoms to include feeling the pressure on her eyeballs and believing she was going to die.

19. Based on the above information, I believe probable cause exists to arrest **Patrick Yazzie-Tso**, an Indian, for the assault which resulted in serious bodily injury to the person of Jane Doe, a non-Indian while in Indian Country. In addition, there is probable cause to believe **Patrick Yazzie-Tso**, an Indian, assaulted a spouse, intimate partner, or dating partner, to wit, Jane Doe, a non-Indian, by strangling, suffocating, or attempting to strangle or suffocate her while in Indian Country, in violation of Title 18 USC 1153, 113(a)(6) and 113(a)(8)

I swear this information is true to the best of my knowledge and belief.

Respectfully,

J.P. Montowine

Special Agent

Bureau of Indian Affairs

Signed before me on this 8th day of January, 2016.

U.S. Magistrate Judge